

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TYLAR W GODDARD
Claimant

HY-VEE Employer

APPEAL 21A-UI-04887-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/20/20
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

The claimant/appellant, Tylar W. Goddard, filed an appeal from the February 4, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on April 15, 2021. The claimant participated. The employer did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant totally, partially, or temporarily unemployed?
Is the claimant able to and available for work?
Is the claimant still employed at the same hours and wages?
Is the employer’s account subject to charge?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant established a claim for unemployment insurance benefits with an effective date of December 20, 2020. His weekly benefit amount is \$493.00.

Claimant is a full-time truck driver for employer, based out of Chariton, Iowa. Claimant has a base pay of \$75.00 per day if he does not pull a load or otherwise is paid per load.

Claimant’s fiancé tested positive for COVID-19. Claimant notified Employer. Employer sent claimant home on December 22, 2020 and directed him to self-quarantine through January 5,

2021. Claimant was not advised to be off work due to illness or to self-quarantine by a medical professional. Claimant had no symptoms and took three COVID-19 tests during the time, and tested negative. Employer would not permit claimant to return to work. Claimant was not compensated for the time off. He worked partial weeks for the weeks ending December 26, 2020 and January 9, 2021, outside of his quarantine period. He reported his gross wages:

For the week ending 12/26/20, he earned \$500.00.

For the week ending 01/02/21, he earned no wages.

For the week ending 01/09/21, he earned \$300.00.

Claimant is listed as Group Code 8, which currently indicates that he is unemployed because of the pandemic. Under this group code, claimant is still attached to the employer but is not able to work due to the pandemic, and the employer is relieved of any charges. The IWD website also states:

ATTENTION EMPLOYERS:

At this time, IWD is not charging employers for claims made by their employees due to COVID-19 related unemployment. Presently, there are also no plans to enact a trigger to begin charging employers in the event that the trust goes below a certain threshold. IWD will notify employers of any changes to this decision should the need arise.

See: <https://www.iowaworkforcedevelopment.gov/COVID-19#ife>

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is eligible for benefits.

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work, or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time,

if the individual's employment, although temporarily suspended, has not been terminated.

For an unemployed individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) **The claimant requested** and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

Iowa Admin. Code r. 24.22(2) provides:

Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. A leave of absence negotiated *with the consent of both parties*, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

(emphasis added).

Claimant in this case was able to and available for work. Employer, not claimant, initiated a leave of absence for claimant, based upon employer policy. It was not based upon claimant's illness or a medical professional directing claimant to be off work. Claimant was not voluntarily unemployed. Claimant is eligible for benefits, provided he meets all other requirements. Claimant's benefits for the weeks ending December 26, 2020 and January 9, 2021 will be

adjusted based upon his wages earned. .As claimant is classified as Group Code 8, the employer shall not be charged for these benefits.

DECISION:

The February 4, 2021 (reference 01) initial decision is reversed. Claimant was able to and available for work; benefits are allowed from December 20, 2020, until January 9, 2020, provided he is otherwise eligible. The employer shall not be charged for any benefits paid for the period of December 20, 2020, until January 9, 2020. Claimant's benefits for the weeks ending December 26, 2020 and January 9, 2021 will be adjusted based upon his wages earned.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

April 20, 2021 _____
Decision Dated and Mailed

jlb/ol